

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES EDWARD SMITH,

Defendant.

Case No. 1:95-cr-41-01

HON. RICHARD ALAN ENSLEN

ORDER

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This matter is before the Court on the United States of America's Motion to Reduce Defendant James Edward Smith's Sentence pursuant to Federal Rule of Criminal Procedure 35(b). Plaintiff has moved for relief due to Defendant's substantial assistance to Plaintiff. In particular, Defendant has assisted Plaintiff by providing information and testimony which has resulted in the conviction of a significant and substantial supplier of cocaine to Benton Harbor and Benton Township who had remained a fugitive for eight years. Plaintiff deems the assistance as highly credible, detailed, substantial and truthful. It requests a five-level reduction of Defendant's sentence.

Upon review of the circumstances, the Court finds that Plaintiff's motion should be granted since the assistance provided warrants relief under Federal Rule of Criminal Procedure 35(b). The Court finds that a reduction of more than five levels is warranted due to the extent of the assistance and due to Defendant's advanced age (which would make a lesser reduction of marginal or no benefit to Defendant). *See also United States v. Snelling*, 961 F.2d 93, 96-97 (6th Cir. 1991) (holding that the extent of departure is discretionary). In the Court's discretion, it finds that a seven-

level departure is most appropriate in light of the assistance, the nature fo the past offense, and the nature of the offender.

THEREFORE, IT IS HEREBY ORDERED that Plaintiff United States of America's Motion to Reduce Defendant's Sentence pursuant to Federal Rule of Criminal Procedure 35(b) (Dkt. No. 364) is **GRANTED** and Defendant's sentence of imprisonment is reduced to a term of 235 months and a period of supervised release shall be add.

IT IS FURTHER ORDERED that an Amended Judgment shall enter consistent with this Order.

Dated in Kalamazoo, MI:
May 6, 2005

/s/Richard Alan Enslen
Richard Alan Enslen
United States District Judge